

Washington State Judicial Branch 2015-2017 BIENNIAL BUDGET REQUEST

Decision Package

Agency Office of Public Defense

Decision Package Title Contract Attorney Retention
Parents Representation Program

Budget Period 2015-2017 Biennial Budget

Budget Level Maintenance Level

Agency Recommendation Summary Text

A compensation increase is requested to retain qualified Parents Representation Program contract attorneys and social workers to ensure constitutional and statutory rights to counsel for indigent parents involved in dependency and termination cases. The precise funding request is not yet known pending an evaluation of data from a salary survey of similarly qualified attorneys engaged in dependency practice on behalf of the state Attorney General.

Fiscal Detail

Operating Expenditures	FY 2016	FY 2017	Total
011-1 General Fund State	\$ 1,817,000	\$1,817,000	\$ 3,634,000
Staffing	FY 2016	FY 2017	Total
FTEs (number of staff requested)	0	0	0

Package Description

The Need:

OPD contracts with individual attorneys and social workers, and firms and county agencies to provide public defense in 31 counties for indigent parents who have a right to counsel in dependency and termination cases. Currently, OPD contracts with 84 FTE attorneys and 21 FTE social workers. Starting with the program's expansion on July 1, 2014 OPD's contracts will increase to 108 FTE attorneys and 27 FTE social workers.

Contract rates have not been adjusted for maintenance or other purposes since 2007. At that time, they were set at levels that were minimally adequate, but that no longer cover mandatory business costs.

Since 2012, a significant number of Parents Representation Program contract attorneys have left the program for the stated reason of inadequate compensation. These include attorneys in Kitsap, Kittitas, Mason, and Pierce counties, as well as multiple attorneys in Snohomish, Spokane, Stevens, and Yakima counties.

Consistent with Supreme Court and Washington State Bar Association Standards for Indigent Defense, Parents Representation Program attorneys are mandated to maintain office and telephone answering services or staff. They also must purchase supplies, purchase health insurance and other benefits for themselves and their staff, and pay for malpractice insurance, Bar dues, taxes, and other professional costs.

The Bureau of Labor Statistics reports that since the last Parents Representation Program cost of living increase in 2007, inflation has increased by about 13 percent.

The Solution:

Providing a professional level of compensation will ensure that OPD can contract with qualified attorneys who have dependency case experience and are reliably able to practice largely without supervision. Retaining skilled attorneys is critical to the program's ability to provide the requisite representation quality level for parents, which has been demonstrated to improve family reunification rates and accelerate all types of permanency outcomes. The requested compensation increase is to be determined based on data gathered in the pending salary survey, which will obtain compensation data regarding assistant attorneys general and county prosecutors. A professional level of compensation will ensure continued high quality parents representation by attorneys and social workers contracting with OPD.

Comparison to Existing Funding and Performance: Current attorney annual rates equal about \$56.00 per hour to \$68.00 per hour depending on qualifications, experience and regional cost variations. It is estimated that an appropriate level of contract attorney compensation would be about \$65.00 to \$78.00 per hour.

Contract social workers currently are paid about \$31.00 per hour. It is estimated that social worker compensation would increase to about \$34.60 per hour.

Comparison to Existing Funding and Performance:

Without the requested funding and statewide expansion of the Parents Representation Program, the state would spend less on representing indigent parents but, based on Program evaluations that show improved family reunification and earlier permanency, the state likely would spend significantly more on foster care and adoption subsidies. Without funding to expand the state Program, attorneys in these eight counties likely will continue to lack caseload controls, professional oversight, readily available social worker and investigator services, and crucial training.

Narrative Justification and Impact Statement

This package contributes to the Judicial Branch Principle Policy Objectives as identified below.

Access to Necessary Representation. *Constitutional and statutory guarantees of the right to counsel shall be effectively implemented. Litigants with important interest at stake in civil judicial proceedings should have meaningful access to counsel.*

Funding this request will ensure that OPD can retain and recruit well-qualified Parents Representation Program attorneys to serve indigent parents who have a constitutional or statutory right to counsel. Failure to fund this request could result in a lack of qualified attorneys willing to accept OPD contracts. The remaining contract attorneys could experience excessive caseloads, potentially in violation of program standards as well as the caseload limits adopted in the Supreme Court Standards for Indigent Defense.

Measure Detail

Impact on clients and service

Funding this request will ensure that every indigent parent who has a right to counsel in OPD-served counties is appointed a well-qualified attorney who will provide effective assistance of counsel.

Impact on other state services

N/A

Relationship to Capital Budget

N/A

Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan

N/A

Alternatives explored

The right to counsel provided to indigent parents by OPD contract attorneys is constitutionally or statutorily required. Minimum professional qualifications and maximum per-attorney caseloads are established by the Supreme Court Standards for Indigent Defense; OPD cannot contract with unqualified or "low bid" attorneys. The alternative to contracting for these mandatory services would be to hire new state employees (attorneys and support staff) and lease significantly more state office space around the state.

Distinction between one-time and ongoing costs and budget impacts in future biennia

Funding for Parents Representation Program attorney quality retention would be an ongoing cost.

Effects of non-funding

Without the maintenance increase, OPD expects to continue to lose qualified contract attorneys who are unable at current compensation rates to meet the Parents Representation Program's

performance standards and the Supreme Court Standards for Indigent Defense.

Expenditure calculations and assumptions and FTE assumptions

Object Detail	FY 2016	FY 2017	Total
Staff Costs	\$ 0	\$ 0	\$ 0
Non-Staff Costs	\$ 1,817,000	\$1,817,000	\$ 3,634,000
Total Objects	\$ 1,817,000	\$1,817,000	\$ 3,634,000